

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Criminal No. 14-cr-20479

Plaintiff,

Honorable George Caram Steeh

v.

JOSEPH TUBBS,

Defendant.

PRELIMINARY ORDER OF FORFEITURE

WHEREAS, an Indictment was filed on or around August 12, 2014, which charged Defendant with one count of Distribution of Child Pornography in violation of 18 U.S.C. § 2252A(a)(2); and one count of Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5)(B). (Docket #12).

WHEREAS, the Indictment also sought criminal forfeiture pursuant to 18 U.S.C. § 2253 of:

[A]ny visual depiction described in section 2251, 2251A, or 2252, 2252A, 2252B, or 2260 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

[A]ny property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

[A]ny property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such

property. all property that facilitated or was involved in the offense(s) and/or constituted proceeds traceable to the offense(s).

WHEREAS, on or about October 29, 2014, Defendant pleaded guilty to Counts One and Two of the Indictment.

WHEREAS, in the Rule 11 Plea Agreement, the Defendant agreed to forfeit his interest in the following property to the United States pursuant to 18 U.S.C.

§ 2253:

- a. One Compaq Presario Computer, Model: CQ5300F, Serial Number: MXX005031S; and
- b. One Maxtor Hard Drive, Serial Number: G606ZBQC.

NOW, THEREFORE, based upon the Indictment, the Defendant's conviction and agreement to forfeiture, the Rule 11, and other information in the record:

IT IS HEREBY ORDERED that Defendant JOSEPH TUBBS forfeits to the United States, pursuant to 28 U.S.C. § 2253, any and all interest he may have in following property:

- a. One Compaq Presario Computer, Model: CQ5300F, Serial Number: MXX005031S; and
- b. One Maxtor Hard Drive, Serial Number: G606ZBQC.

(collectively, the "subject property").

IT IS FURTHER ORDERED that upon entry of this Preliminary Order of Forfeiture, the United States Attorney General, or his designee, is authorized to

commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.

The United States shall publish on www.forfeiture.gov, notice of this preliminary forfeiture order and of its intent to dispose of the above-named property in such manner as the Attorney General may direct, pursuant to 21 U.S.C. § 853(n). Said notice shall direct that any person other than the Defendant asserting a legal interest in the property may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the property. The petition must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the property.

Pursuant to Fed.R.Crim.P. 32.2(b)(4)(A), this Preliminary Order of Forfeiture shall become final as to the Defendant at the time of his sentencing. If

no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed.R.Crim.P. 32.2(c)(2).

After the disposition of any motion filed under Fed.R.Crim.P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

The United States shall have clear title to the Subject Property following the Court's disposition of all third-party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of third party petitions.

The Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed.R.Crim.P. 32.2(e).

IT IS SO ORDERED.

Dated: March 3, 2015

s/George Caram Steeh
HONORABLE GEORGE CARAM STEEH
United States District Judge